

**THE PUBLIC INTEREST DISCLOSURE ACT 1998
("WHISTLEBLOWING")
POLICY & PROCEDURE**

1 INTRODUCTION

- 1.1 The College is committed to the highest standards of openness, probity and public accountability. It seeks to conduct its affairs in a responsible manner, taking into account the requirements of The Public Interest Disclosure Act (PIDA) 1998, The Bribery Act 2010, The Enterprise and Regulatory Reform Act 2013 and any other relevant legislation or regulations.
- 1.2 It is committed to operating in an ethical and principled way to prevent and detect fraud, corruption, bribery and malpractice. This policy/procedure is intended to provide a framework to enable staff to raise genuine concerns about malpractice, suspected bribery, breaches of the law and other serious wrongdoings in connection with the College. It enables staff to identify concerns (externally, if appropriate) and sets out how this can be done.
- 1.3 The College encourages staff to raise genuine concerns about suspected wrongdoing at the earliest practicable stage without fear of adverse repercussions. However, a failure to raise a concern under this procedure may result in a disclosure losing its protected status under the PIDA.
- 1.4 This policy/procedure also seeks to balance the need to engender a culture of openness against the need to protect the College or other staff against vexatious or unfounded allegations. It is not designed to question financial or business decisions taken by the College, and it is not a mechanism for staff to raise grievances: a separate procedure exists for this purpose.
- 1.5 Learners at the College are also encouraged to raise genuine concerns about suspected wrongdoing by making a complaint in line with the official Complaints Policy. Any such issues should be directed in the first instance to the Assistant Principal (Quality). Safeguarding concerns should be raised in line with the College's Safeguarding policies.
- 1.6 If an individual employee has any specific needs which require adjustments to be made to the format of any meetings/discussions they may attend under this policy, they should discuss these with Human Resources prior to the scheduled meeting time. This may include issues around language, literacy, disability, or times of meetings.

2 SCOPE OF THE POLICY/PROCEDURE

- 2.1 This policy/procedure is intended to cover the disclosure by a member of staff of information which relates to some danger, fraud, bribery or other illegal or unethical conduct connected with the workplace, be it by the member of staff or by his/ her colleagues. The policy/procedure applies to all staff at the College, including apprentices, contractors, and temporary/agency staff.

2.2 Examples of issues that might be raised are:

- financial malpractice, impropriety or fraud
- bribery, corruption or improper conduct
- dishonesty including criminal activities
- failure to comply with a legal obligation
- miscarriage of justice
- academic or professional malpractice
- unethical activities that may be of a criminal nature
- dangers to health, safety or the environment
- attempts to conceal any of the above

2.3 Staff who are unsure whether it is appropriate to raise their concern under this policy/procedure or whether it is a personal grievance (that should be raised under the staff grievance procedure) are encouraged to approach the Head of Human Resources or the Clerk to the Governors for confidential advice.

3 PROTECTION OF STAFF RAISING CONCERNS

3.1. The Public Interest Disclosure Act 1998 (PIDA) gives legal protection to staff who raise concerns out of a sense of public duty.

3.2 Disclosures are protected, provided that the member of staff is:

- acting in good faith and the concern is reasonably believed to be of public interest
- has reasonable grounds for believing that the information disclosed indicates the existence of one or more of the following:
 - that a criminal offence has been committed, is being or is likely to be committed;
 - that a person has failed, is failing or is likely to fail to comply with any legal obligation to which s/he is subject;
 - that a miscarriage of justice has occurred, is occurring or is likely to occur;
 - that the health and safety of any individual has been, is being or is likely to be damaged. It must indicate a greater danger than is associated with the normal use of the process/product, or a danger that is not usually associated with it;
 - that the environment has been, is being or is likely to be damaged;
 - that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

3.3 For it to be considered to be 'protected,' a disclosure must relate to a specific subject and have been made in an appropriate manner. The member of staff must reasonably believe that the disclosure is being made in the public interest. A protected disclosure must consist of information and not merely be allegations of suspected malpractice.

3.4 The College will treat as a serious disciplinary matter any example of where any member of staff or manager seeks to deter a member of staff, agency workers, or contractor working at, or in association with the College, from raising a legitimate concern. Staff who bring legitimate concerns to the attention of College management,

as outlined in the policy/procedure, will have the right to have the matter treated confidentially and not have their name disclosed to the alleged perpetrator of malpractice without their prior approval.

- 3.6 A person raising a concern will not be required to put the matter in writing, although the manager with whom they discuss the issue will take notes, which do not identify the person making the disclosure. The identity of the person making the disclosure will be protected unless there is an overriding reason which makes this impossible. In order to protect the member of staff making the disclosure, it may be necessary to offer alternative working arrangements, which could include working from home. The College may also provide advocacy.
- 3.7 If a member of staff makes an allegation, in good faith, in accordance with this policy/procedure which is not confirmed by subsequent investigation, no action will be taken against that individual.

4 ACCOUNTABILITY OF STAFF RAISING CONCERNS

- 4.1 The College has a responsibility to ensure that those staff against whom concerns are raised are treated fairly, as any allegation made under this policy is a serious matter. The College will take all reasonable steps to provide protection as necessary. This will apply to alleged perpetrators and/or those who may be required to give evidence.
- 4.2 Concerns should be raised only if the disclosure is in the interests of the College, staff, students, or the public (i.e., for the protection of one or more of these groups).
- 4.3 It is an abuse of the policy to bring a false or malicious accusation. Therefore, it must be understood that falsely or maliciously raising unfounded allegations will be treated as a serious disciplinary offence and, in the case of making such an allegation externally, could involve bringing the College into disrepute. The College also has a duty of care to the reputations of members of staff. Care will be taken to protect such reputations in instances of malicious, false or mistaken accusations.

5 PROCEDURE - HOW TO RAISE A CONCERN

Staff wishing to raise a concern should do so in accordance with the procedure set out below. It is acknowledged that anyone wishing to raise a concern may wish to be accompanied or represented by a member of staff employed by the College or any trade union representative at any stage of the procedure.

5.1 General

- 5.1.1 Where a member of staff wishes to raise a concern in relation to the items included at section 2.2, s/he should use the flowchart appended to determine the most appropriate level of management to be approached to discuss the concern so that any appropriate action can be taken.
- 5.1.2 The member of staff may contact the Principal if the concern relates to a member of the Senior Management Team or the Chair of the Board of Governors if the concern relates to the Clerk to the Governors.
- 5.1.3 The member of staff may contact the Clerk to the Governors in the first instance if the concern relates to:

- the Principal
- an individual governor or the Board of Governors;
- where there are exceptional circumstances, for example where a member of staff feels that the raising of the concern within the College could lead to the possible destruction of evidence of criminal activity.

5.1.4 The matter will be dealt with under Stage 5.2 below.

5.1.5 Staff are encouraged to identify themselves when making a disclosure. If an anonymous disclosure is made, the College will not be able to notify the individual making the disclosure of the outcome of actions taken by the College. Anonymity also means that the College may have difficulty in investigating such a concern. The College reserves the right to determine whether to apply this procedure in respect of an anonymised disclosure in light of the following considerations:

- the seriousness of the issues raised in the disclosure;
- the credibility of the concern;
- the likelihood that the concern can be confirmed from attributable sources.

5.1.6 For further guidance in relation to this policy/procedure, or concerning the use of the disclosure procedure generally, staff should speak in confidence to the Head of Human Resources or the Clerk to the Governors.

5.2 Procedure for Investigation of a Disclosure

5.2.1 A member of staff raising a concern should make an appointment with the relevant manager and, at the same time, advise him/her that the matter is one to be dealt with under this policy/procedure.

5.2.2 When a member of staff makes a disclosure, the relevant manager will acknowledge its receipt, in writing, within a reasonable time.

5.2.3 The relevant manager will then determine whether or not he/she believes that the disclosure has substance or merit and requires further action. If this is not the case, the member of staff will be notified in writing of the reasons for the decision and advised that no further action will be taken by the College under this policy/procedure. Considerations to be taken into account when making this determination may include the following:

- if the relevant manager is satisfied that a member of staff does not have a reasonable belief that suspected malpractice is occurring;
- if the matter is already the subject of legal proceedings or appropriate action by an external body; or
- if the matter is already subject to another appropriate College procedure.

5.2.4 If appropriate, an internal investigation will be conducted by a College Manager without any direct association with the member of staff raising the concern, or by an independent investigator appointed by the College. Depending on the seriousness of the concern raised and the seniority of the member of staff making the disclosure, it may be appropriate for a senior manager or a designated officer, such as the Clerk to the Governors, to investigate the concern.

- 5.2.5 The matter will be handled in the strictest confidence. The person raising the concern will not be required to put their concern in writing, although they may do so if they wish. The manager with whom the matter is being raised will meet the member of staff, usually on College premises, although meetings may be arranged off-site in exceptional circumstances. Notes will be made at this meeting, but they will not identify the person raising the concern.
- 5.2.6 The manager with whom the concern has been raised will inform their line manager, who will instigate an investigation. If necessary, the College's Internal Audit Service may be used and/or notification to the Police will be made, should criminal activity be suspected.
- 5.2.7 The member of staff must be kept informed of the progress of the investigation, particularly if this is protracted, and they shall be advised, in writing to their home address, of the outcome of the investigation and any action taken to resolve the issue. The member of staff shall have the right to appeal against any decision made under this procedure if s/he is not satisfied that the matter is being dealt with properly.
- 5.2.8 Any recommendation for further action by the College will be made to a member of the Senior Management Team (or to the Principal or the Chair of the Board of Governors, if appropriate). The College will ensure that the recommendations made are implemented as far as possible, unless there are good reasons for not doing so. Possible actions could include an internal investigation; referral to the College's auditors; or referral to the relevant external bodies such as the police, OFSTED, the Health & Safety Executive, or the Information Commissioner's Office.
- 5.2.9 The member of staff making the disclosure will be notified of the outcome of any action taken by the College under this policy/procedure within a reasonable period. If the individual is not satisfied that their concern has been appropriately addressed, they can appeal against the outcome by raising the issue with the relevant member of the Senior Management Team (or the Principal or Chair of the Board of Governors, if appropriate) within 10 working days. The member of SMT will make a final decision on action to be taken and notify the member of staff making the disclosure.
- 5.2.10 All communications with the member of staff making the disclosure should be in writing and sent to the individual's home address, rather than through the College's internal mail system. If investigations take an extended amount of time, the member of staff should be kept updated on the progress of the investigation, together with an estimate of the completion date.

5.3 Matters Relating to the Principal/Board of Governors

- 5.3.1 The member of staff may contact the Clerk to the Governors in the first instance if the concern relates to:
- the Principal;
 - an individual governor or the Board of Governors;
 - where there are exceptional circumstances, for example where a member of staff feels that the raising of the concern within the College could lead to the destruction of evidence of criminal activity.

- 5.3.2 The Chair of the Audit Committee may commission such further investigation as he/she considers is warranted and may refer the matter to the Chair of the Board of Governors or to the Audit Committee for further action if appropriate.
- 5.3.3 If the concern reported to the Clerk is one which is likely to affect the Board of Governors, the Clerk may seek advice from the Education Skills Funding Agency or the College's internal/external auditors as to the steps to be taken to deal with the matter. In this eventuality, the Clerk must inform the Chair of the Board of Governors and the Principal that this has been done.
- 5.3.4 The Clerk will advise the member of staff raising the concern in writing to their home address of the outcome of the review and any further action taken to resolve the issue unless they have chosen to remain anonymous.

6 SAFEGUARDS FOR STAFF MAKING A DISCLOSURE

- 6.1 A member of staff making a disclosure under this policy/procedure can expect the matter to be treated confidentially by the College and, where applicable, their name will not be disclosed to anyone implicated in the suspected wrongdoing, without their prior approval.
- 6.2 The College will take all reasonable steps to ensure that any report, recommendations or other relevant documentation produced by the College does not identify the member of staff making the disclosure without their written consent, or unless the College is legally obliged to do so, or for the purposes of seeking legal advice.
- 6.3 No formal disciplinary action will be taken against a member of staff on the grounds of making a disclosure made under this policy/procedure. This does not prevent the College from bringing disciplinary action against a member of staff where the College has grounds to believe that a disclosure was made maliciously or vexatiously, or where a disclosure is made outside the College without reasonable grounds.
- 6.4 A member of staff will not suffer dismissal or any detrimental action or omission of any type (including informal pressure or any form of victimisation) by the College for making a disclosure in accordance with this policy/procedure. Equally, where a member of staff is threatened, bullied, pressurised or victimised by a member of staff for making a disclosure, disciplinary action will be taken by the College against the member of staff in question.

7 DISCLOSURES TO EXTERNAL BODIES

- 7.1 This policy/procedure allows members of staff to raise disclosures internally within the College. A member of staff has the right to make a disclosure outside of the College where there are reasonable grounds to do so and in accordance with the law.
- 7.2 Staff may make a disclosure to an appropriate external body prescribed by the law. This list of 'prescribed' organisations and bodies can be found in information on the Government's website www.gov.uk including:
- the College's internal or external auditors

- the Department for Education
- the Education & Skills Funding Agency
- the Office for Students
- the Health & Safety Executive
- the National Audit Office or its successor body
- a Member of Parliament

7.3 Staff can also make disclosures on a confidential basis to a practising solicitor or barrister.

7.4 If a member of staff seeks advice outside of the College, they must be careful not to breach any confidentiality obligations or damage the College's reputation in so doing.

8 ACCOUNTABILITY

The College will keep a record of all concerns raised under this policy/procedure (including cases where the College deems that there is no case to answer and therefore that no action should be taken). The Clerk to the Governors will provide a report of any instances to the Audit Committee on an annual basis.

9 FURTHER ASSISTANCE FOR STAFF

9.1 The College will not tolerate any harassment or victimisation of staff who make disclosures. If, at any stage of this procedure, a member of staff feels that they are being subjected to informal pressures, bullying or harassment due to making a disclosure, they should raise this matter in writing with the Principal.

9.2 A member of staff making a disclosure may want to confidentially request counselling or other support from the College's occupational health service. Any such request should be addressed to the Head of Human Resources. Such a request would be treated in confidence.

9.3 For confidential advice on whistleblowing issues staff can also contact the charity Protect , as follows:

The Green House
244-254 Cambridge Heath Road
London E2 9DA

<https://protect-advice.org.uk/>

Whistleblowing Advice Line: 020 3117 2520

E-mail:

<https://protect-advice.org.uk/contact-protect-advice-line/>

